

PROPOSED STATE LAND SALE 17 SOUTHCENTRAL REGION AREA PARCELS

PROPOSED MINERAL CLOSING ORDER

FINAL FINDING AND DECISION

AS 38.05.035(e)

This Final Finding and Decision is intended to complement and update the Preliminary Finding and Decision issued January 14, 2005 for the proposed action; see Attachment 2.

Proposed Action: The Department of Natural Resources (DNR), Division of Mining, Land, and Water proposes to offer for sale 17 surveyed parcels of state land for private ownership. The proposed sale consists of 17 parcels totaling 267.42 acres and range in size from approximately 3.5 to 45 acres; see Attachment A for a list of legal descriptions. The parcels are located within the Southcentral Region near the communities of Glennallen and Trapper Creek and also located near Shell Lake, Schnieder Lake, and Swan Lake. Parcels will be offered for sale through a public sealed bid auction. These parcels have not been offered under any previous land sale program. The purpose of the sale is to provide land for settlement throughout the Southcentral Region. The sale of these parcels will help meet the State's goal of making quality, accessible State land available for private ownership and will also generate revenue.

To prevent potential conflicts between surface and subsurface users within the parcels, the Division proposes to close to mineral entry 6 of the 17 parcels not already closed to mineral entry, 163.86 acres total; see Attachment A. No mineral activity has been identified within or near the proposed parcels.

Authority: Alaska Statutes 38.04.005 – Public and Private Land Use Policy, 38.04.010 – Making Land Available for Private Use, 38.04.020 – Land Disposal Bank, 38.04.035 – Criteria for Program Selection, 38.04.045 – Survey and Subdivision, 38.04.050 – Access to Private Use Areas, 38.04.055 – Access Through Private Use Areas, 38.05.005 – Division of Lands, 38.05.035 – Powers and Duties of the Director, 38.05.045 – General Provisions for the Sale of Land, 38.05.050 – Disposal of Land for Private Ownership, 38.05.055 – Procedures for Sale by Auction, 38.05.125 – Reservation of Rights, 38.05.127 – Access to Navigable or Public Water, 38.05.185 – General policy on Mineral Location, 38.05.840 – Appraisal Policy, 38.05.910 – Policy of the State to Encourage Settlement, 38.05.940 – Land Purchase Price Discount for Veterans, 38.05.945 – Requirements for Notice. Alaska Administrative Code Title 11, Chapter 51 – Public Easements, Chapter 53 – Records, Surveys and Platting Standards, Chapter 67 – Disposal of Land, and Title 6, Chapters 50, 80, and 85 Alaska Coastal Management Program.

“Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans.”

Public Notice/Discussion: Summary of comments received pursuant to AS 38.05.945; see Attachment 1.

Traditional Use Finding: A traditional use finding is not applicable for the 16 parcels located within the Matanuska-Susitna Borough because the parcels are within an organized borough (AS 38.05.830).

There are no anticipated significant changes to traditional uses of the land and resources of the Glennallen II Subdivision parcel (ADL 229210) as a result of the proposed action other than a potential increase in remote recreational and residential activity. The parcel is located within an existing residential subdivision. The parcel has been designated and classified for settlement (land disposals) through the Copper River Basin Area Plan, and one of the considerations in designating settlement areas was minimizing impacts on traditional uses, including fish and wildlife harvest.

Final Finding and Decision: There is only one minor modification from the proposed action as stated in the Preliminary Finding and Decision dated January 14, 2005:

Parcels with water frontage will be subject to a 100-foot building setback upland from the ordinary high water mark of any waterbody, instead of the 75-foot building setback as originally proposed in the Preliminary Finding and Decision.

The Division recommends proceeding with the proposed action as outlined. Offering these parcels for sale through a competitive, sealed bid auction will help meet the State's goal to provide quality, accessible land to the public for private ownership and will raise revenue for the State.

Recommend Approval:



Holly Roberson Hill, Natural Resource Manager III
Land Sales and Contract Administration Section

November 22, 2005

Date

Approval: Public notice has been accomplished according to AS 38.05.945 and the comments received have been considered and summarized; see Attachment 1. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. This Final Finding and Decision is intended to complement the proposed Preliminary Finding and Decision, dated January 14, 2005. I have reviewed and considered the above decision and it is my finding that this action is in the best interest of the State and is hereby approved.



Richard H. Mylius, Acting Director
Division of Mining, Land, and Water

November 22, 2005

Date

Appeal Provision: A person affected by this decision who provided timely written comment may request reconsideration, in accordance with 11 AAC 02. Any reconsideration request must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d) and may be mailed or delivered to Michael Menge, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr_appeals@dnr.state.ak.us. If reconsideration is not requested by **December 12, 2005** or if the commissioner does not order reconsideration on his own motion, this decision goes into effect as a final order and decision on December 23, 2005. Failure of the commissioner to act on a request for reconsideration within 30 days after issuance of this decision is a denial of reconsideration and is a final administrative order and decision for purposes of an appeal to Superior Court. The decision may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. An eligible person must first request reconsideration of this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 is enclosed.

Attachments: Attachment 1, Summary of Public Comment
Attachment 2, Preliminary Finding and Decision, dated January 14, 2005
Copy of 11 AAC 02

Attachment 1

PROPOSED STATE LAND SALE 17 SOUTHCENTRAL REGION AREA PARCELS

PROPOSED MINERAL CLOSING ORDER

FINAL FINDING AND DECISION AS 38.05.035(e)

SUMMARY OF PUBLIC COMMENTS

Notice provided under AS 38.05.945: A public notice announcing the Preliminary Finding and Decision for the proposed state land sale and mineral closing order along with the solicitation for public comment, was published and distributed in compliance with the above statute in the following manner:

- Published in four newspapers, the Anchorage Daily News and the Frontiersman on 01/14/2005, the Talkeetna Times on 01/15/2005, and the Copper Valley Bi-Weekly on 01/19/2005;
- Mailed, with a request to post for 30 days, to four post masters (Glennallen, Skwentna, Talkeetna, and Trapper Creek/Willow) per AS 38.05.945(c)(4);
- Mailed, with a request to post for 30 days, to four libraries (Copper Valley Community, Willow, Talkeetna, and Trapper Creek);
- Mailed to the Glennallen Community Corporation, Skwentna Community Council, Talkeetna Community Councils, Trapper Creek Community Council, Y Community Council, and to the Matanuska-Susitna Borough per AS 38.05.945(c)(1);
- Mailed to Ahtna, Inc., Gold Creek-Susitna Village Corp., and Cook Inlet Region Inc. per AS 38.05.945(c)(2)-(3);
- Mailed to adjacent land owners and other state and local agencies.

Comments Received: Five comments were received during the public comment period; two of which were non-objections from the DNR Southcentral Region Office and the State Pipeline Coordinator' Office. All comments are summarized and addressed as follows:

Department of Fish and Game, Division of Sport Fish (ADF&G):

Denali View Subdivision (ADL 228889) and Swan Lake Subdivision (ADL 227598) – Sunny Lake is important for coho salmon. ADF&G supports retaining wetlands and some lakeshore in state ownership (SAP, pages 53 and 59), especially at inlet and outlet streams, to maintain fish and wildlife habitat and water quality, and ensure public access for recreation. We are pleased that the wetlands and the inlet and outlet stream at Sunny Lake remain in state ownership.

Glennallen II Subdivision (ADL229210) – We have no comments concerning this parcel.

Schnieder Lake Small Lot (ADL 229227) – This lake reportedly has a large pike population. We concur with the reservation of access easements.

Shell Lake Small Lot (ADL 229228) – Shell Lake is important for sockeye salmon spawning and rearing as well as for coho and pink salmon. Cook Inlet Aquaculture Association, in cooperation with ADF&G, has operated a salmon counting weir at this location in the past and likely will do so in the future. They also routinely remove beaver dams from Shell Creek to ensure salmon passage into the lake. From the materials provided for review, this parcel appears to be adjacent to Shell Creek. The Susitna Area Plan (SAP) areawide management guidelines require that stream buffers in state subdivisions be retained in state ownership (page 55) and that the a standard minimum buffer width of 200 feet landward from ordinary high water mark be established (page 56). In all cases, a minimum 100-foot building setback is required (page 56). ADF&G recommends that a 200-foot state owned buffer should be established along the OHW mark of Shell Creek.

Shell Lake Small Lot (ADL 229229) – We have no comments concerning this parcel. We concur with the reservation of access easements.

Susitna River Odd Lots (ADL 228892 – ADL 228898) – The Susitna River is important for sockeye, chinook, coho, pink and chum salmon. Although the Susitna River is silty, adult fish gather at the mouths of small clearwater streams making sportfishing possible along this stretch of river. The Susitna Area Plan (SAP) areawide management guidelines require that stream buffers in state subdivisions be retained in state ownership (page 55) and that the a standard minimum buffer width of 200 feet landward from ordinary high water mark be established (page 56). In all cases, a minimum 100-foot building setback is required (page 56). ADF&G recommends that a 200-foot state owned buffer should be established along the OHW mark of the Susitna River and Trapper Creek (SUP, page 162).

DNR Response: The Shell Lake Small Lot (ADL 229228) and the Susitna River Odd Lots (ADL 228892 – 228898) are existing, federally surveyed parcels. The Shell Lake Small Lot was created by a Unites States Survey and each of the Susitna River Odd Lots with water frontage on the Susitna River are Government Lots created by a United States Rectangular Survey. None of the parcels are newly created subdivisions created by the DNR. Retaining a 200-foot buffer would require a subdivision of each of these parcels to tract out the buffer. DNR will increase building setback from the proposed 75-foot building setback to a 100-foot building setback. The parcels will be subject to a 100-foot building set-back and a 50-foot public access and utility easement upland from the ordinary high water mark of any water body. No additional post patent restrictions will apply.

Matanuska-Susitna Borough, Planning Division: The following comment was received as part of the stipulations required by the Alaska Coastal Management Program consistency determination.

A portion of the property in Susitna River Odd Lots is located in a federally designated flood hazard area and in accordance with MSB 17.29.100, a permit is required before any development begins in Zone A. MSB 17.29.040 defines development as “any man-made change to improved or unimproved real estate,

including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard". Contact the MSB Code Compliance Division to obtain information regarding the floodplain development permit.

DNR Response: DNR will inform potential purchasers in the lands sales brochure that these parcels are completely or partly located within Zone A of a federally designated flood hazard area and that a permit will be required before any development begins within the flood zone. DNR will also provide the contact information in the brochure to where they can obtain the floodplain development permit.

Trapper Creek Community Council, Board of Directors:

Board members and community members present at the meeting (held January 20, 2005) commented that seven lots on the Susitna River near the mouth of Trapper Creek should not be sold at this time for the following reasons;

1. Questionable access.
2. Environmental and ecological sensitivity of the area.
3. Customary use by the local residents for recreational purposes.

Perhaps more significant that the forgoing protests is the fact that a team, supported and sponsored by the National Park Service and the Matanuska-Susitna Borough Planning Department is presently engaged in developing a comprehensive plan for the Trapper Creek Community Council area. It is very difficult to devise such a plan while other entities, such as the Division of Mining, Land, and Water, are simultaneously disposing of significant land holdings in the area.

In addition to protesting the sale of the lots mentioned here, the Board would like to ask your Division to please defer further sales of land in the Trapper Creek Community Council area until the new comprehensive plan is complete.

DNR Response: The Susitna River Odd Lots are existing surveyed parcels classified for Settlement (Land Disposals) by the Susitna Area Plan. Access to the parcels is primarily by the Susitna River, which is considered navigable in this location. Alternate, legal access exists utilizing platted and/or reserved public access easements. Additional access exists across undesignated state land under the Generally Allowed Uses on state lands. Parcels are subject to a 30-foot public access and utility easement along all upland interior lot lines and a 50-foot public access easement upland from the ordinary high water mark of all water bodies.

To minimize the affects on the environment, DNR has proposed to offer these parcels as surveyed with sizes that range from 12.55 to 44.9 acres. DNR does not recommend the alternative of subdividing these parcels to create a higher density subdivision. Offering the parcels as surveyed will offer the public a variety of sizes to purchase while maintaining a low density, remote feeling within the area. DNR will also increase the building setback upland from the ordinary high water mark from the proposed 75 feet to 100 feet.

To help maintain the public use of the surrounding State lands along the Susitna River, DNR has reserved several tracts of State land for Public Recreation and/or Wildlife Habitat. Access easements have been created to provide access to and along the Susitna River and adjacent State lands retained in public ownership.

The offering of these seven parcels should have no impact on the proposed Trapper Creek Comprehensive Plan. The State owned parcels have been classified Settlement by the Susitna Area Plan. None of the proposed projects sponsored by the National Park Service or the Matanuska-Susitna Borough Planning Department are affected by the sale of these parcels.